

# Greenberg Traurig

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August 23, 2005

## VIA ELECTRONIC FILING

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Re: **EX PARTE PRESENTATION**  
CC Docket No. 96-45 – Federal-State Joint Board on Universal Service

Dear Ms. Dortch:

This letter is submitted on behalf of our client, TracFone Wireless, Inc., and is in response to an ex parte presentation submitted August 15, 2005 by the Ad Hoc Telecommunications Users Committee (Ad Hoc), and an August 16, 2005 ex parte presentation submitted by the Cellular Telecommunications and Internet Association (CTIA).

In its letter, Ad Hoc opposes a suggestion made previously by Verizon Communications that, if the Commission were to adopt a numbers-based universal service contribution methodology, then telephone numbers associated with prepaid wireless providers should be assessed at fifty percent of the per number charge assessed on other working telephone numbers. The entire basis for Ad Hoc's objection to that proposal is that Verizon has not established that subscribers of prepaid wireless services are low income persons.

TracFone is the nation's leading provider of prepaid wireless service and has been an active participant throughout the universal service contribution methodology proceeding. It has unwaveringly opposed a numbers-based methodology as being violative of Section 254 of the Communications Act and plainly unfair, especially to low volume users of interstate telecommunications services. As TracFone has demonstrated repeatedly, prepaid wireless customers tend to be low volume users and such users are often (although not always) low income users. Whether or not prepaid wireless customers are low income, there is no question that they are almost

always low volume consumers of interstate telecommunications service. In fact, TracFone's business model is premised on providing an affordable, pay-as-you go service for those customers who traditional post-paid providers do not want to serve.

As TracFone has explained previously, it is able to identify which of its revenues are derived from interstate service, and it contributes to the Universal Service Fund based on actual revenue. TracFone does not utilize the wireless safe harbor. Based on data compiled for second quarter 2005, TracFone's universal service contribution was approximately \$0.065 per customer per month. If TracFone were required to contribute \$1.00 per month for each customer's telephone number, the amount which it would have to either absorb or recover from its customers would increase more than fifteen fold. Indeed, even if prepaid numbers were assessed at one-half the level that other numbers are assessed, TracFone's per customer universal service assessment would increase by a factor of nearly eight. The inequity of a numbers-based plan on prepaid wireless providers and their customers does not depend on whether those customers are "low income" as suggested by Ad Hoc. Rather, it depends on how much of a universal service contribution would be borne by those customers relative to their interstate usage.

Finally, TracFone concurs with the views articulated by CTIA. CTIA is "The Wireless Association" and represents a broad spectrum of Commercial Mobile Radio Service providers – much more than the prepaid wireless industry segment. As CTIA notes, interstate revenues are the fairest measure of how consumers value their telecommunications services and automatically adjusts to how those preferences change over time. As telecommunications service usage continues to migrate from wireline services to wireless services, more of the revenues derived from those services are going to wireless providers. Thus, CTIA's support of a revenues-based system as the fairest way to support universal service should be given significant weight by the Commission. TracFone also agrees with CTIA that the base of contributors should be broadened to include IP-enabled services, prepaid calling card services, CLEC interstate end user charges, and telecommunications provided by entities not traditionally considered to be telecommunications providers.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically. If there are questions regarding this letter, please communicate directly with undersigned counsel for TracFone.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitchell F. Brecher", with a long horizontal flourish extending to the right.

Mitchell F. Brecher

cc: Mr. Thomas Navin  
Mr. Richard Lerner  
Ms. Narda Jones  
Ms. Cathy Carpino  
Mr. Rodger Woock

Ms. Marlene H. Dortch

August 23, 2005

Page 3

Ms. Carol Pomponio

Mr. James Lande

Mr. Greg Guice

Mr. James Eisner